

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN JOHN COBB**, on January 22, 2003 at 3:10 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. John Cobb, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Kelly Gebhardt (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Pat Murdo, Legislative Branch
Mona Spaulding, Committee Secretary
Mari Prewett, Transcription of Minutes

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 182, 1/9/2003; SB 79,
12/16/2002; SB 160, 1/7/2003; SB
165, 1/8/2003
Executive Action: SB 165; SB 160; SB 8; SB 9; SB 66;
SB 110

HEARING ON SB 182

Sponsor: SENATOR JOHN BOHLINGER, SD 7, BILLINGS

Proponents: None.

Opponents: Nancy Schlepp, Montana Farm Bureau

Opening Statement by Sponsor:

SEN. JOHN BOHLINGER stated that Montana and six other states, of the fifty states, had chosen to limit the time that a legislature could meet. He continued that 86% of all the other states held annual sessions. He went on to say that now was the time to consider annual sessions. **SEN. BOHLINGER** proceeded to discuss the problems associated with term limits and the need to have annual legislative sessions. He went on to present his proposal of the Legislature meeting for 30 days in odd numbered years to develop a budget; and then meeting for 60 days in even numbered years to take up general legislative issues. To accomplish this, **SEN. BOHLINGER** proposed a Constitutional amendment which would not increase the length of the session nor change the number of days they would meet. He continued that they would still be meeting for 90 days over the biennium, therefore, they would not be spending any more money to assemble the legislature.

SEN. BOHLINGER discussed the costs to the legislators having to be away from home for four months and the cost of having to convene special sessions. He further commented on the need for more of the legislators to serve on either the Finance and Claims or Appropriations Committees, so they would better understand the budget process.

SEN. BOHLINGER referred to the proposed bill and commented on the need for a Constitutional Amendment to change when the sessions would be held and how many votes it would take to create the change. He went on to say that if they believed in annual sessions, that it could create a better process by which to serve the people of Montana, that he hoped they would go to their local electorate and speak on behalf of his proposal. He concluded by saying that this was something that the citizens would be able to vote on.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 11}

Proponents' Testimony: None.

Opponents' Testimony:

Stan Frasier, Helena, gave another perspective on the legislative session. He stated that he was a citizen who had been closely involved with the process for the last ten years. He continued that it was his feeling that the more often the legislature met, the more opportunities there were for mischief. He remarked that the citizens deserved a break from the process, as having to deal with it every year was frightening. He then stated that if a system could be devised where it was absolutely segregated as to

the budget process and general bills, it would be more palatable. **Mr. Frazier** proceeded to tell a brief story about the 2000 Special Session.

{Tape: 1; Side: A; Approx. Time Counter: 11 - 13.4}

Questions from Committee Members and Responses:

SEN. GEBHARDT referred **SEN. BOHLINGER** to lines 19-20 of the bill and asked how he planned to eliminate the problem of a bill not being able to be carried over into a successive session. **SEN. BOHLINGER** replied that the issue had been contemplated in the language. He stated that in the 30 day odd-number year budget sessions, the budget considerations could not be carried over to the general session. He went on to say that during the next biennium, those bills taken up for consideration under general legislation in even numbered years would have to wait for a two-year cycle to be re-introduced; they would not be able to bring those bills forward in the following odd-numbered year budget session. He remarked that they were not shutting the door on an opportunity to re-introduce a good idea.

{Tape: 1; Side: A; Approx. Time Counter: 13.4 - 15.1}

SEN. WHEAT asked **SEN. BOHLINGER** if the way his proposal was structured, if he was right in assuming that, during a general legislative session they would not be able to consider any revenue or appropriation issues. **SEN. BOHLINGER** stated that he was correct.

SEN. WHEAT asked what would happen if an issue came up where the legislature really needed to deal with an appropriation or revenue issue, such as the situation they were faced with right now. He went on to ask if he didn't think his proposed bill was a little too restrictive. **SEN. BOHLINGER** replied that perhaps they could insert some fall-back language into the bill that would provide for allowing bills, that were outside the call of the legislature, to be dealt with, especially those related to the budget. He concluded that he would not be opposed to that type of an amendment.

{Tape: 1; Side: A; Approx. Time Counter: 15.1 - 16.9}

SEN. SPRAGUE stated that he would like to go on record as supporting **SEN. BOHLINGER's** bill. He stated that the reason for biennial sessions was to prevent bills from being rolled over every session. He went on to say that this was an attempt to keep a legislators from being repetitive. He remarked that no legislature could bind the next legislature. He concluded that

if they chose to suspend the rules, and let a bill come in under extreme circumstances, it could help them to get them away from special sessions.

SEN. WHEAT stated that he understood what **SEN. SPRAGUE** was saying, but reminded him that they were talking about a constitutional amendment. He continued saying that it could have serious implications. He indicated that he was intrigued by the idea, as he had never dealt with revenue and appropriation issues and would like to have the opportunity to do so.

{Tape: 1; Side: A; Approx. Time Counter: 16.9 - 18.8}

SEN. BOHLINGER stated that he was asleep at the switch when **SEN. WHEAT** asked the question as to how the legislature might deal with a question that came from outside the scope of that particular session. **SEN. BOHLINGER** referred to line 18 and stated that the language of the bill said: "The legislature may adopt rules permitting consideration of legislation unrelated to the purpose of a legislative session as limited in Subsection 1." He went on to say that he felt that language addressed the concerns raised.

SEN. SQUIRES asked **SEN. BOHLINGER** if he really felt they could deal with the budget in 30 days. She went on to say that presently it was taking the whole 90 days to deal with. **SEN. BOHLINGER** replied that it was a good question. He went on to say that **Mr. Shennett** had suggested that the committee meetings begin at 8 a.m. and go all day, with there being no floor sessions and no afternoon committee meetings, that way they could accumulate enough hours to develop a budget. He pointed out that it was being done this way in Wyoming and seemed to work pretty well.

SEN. SQUIRES asked **SEN. BOHLINGER** when the process allowed for the vote on the budget to be taken. **SEN. BOHLINGER** replied that the vote would occur during the last five days of the 30-day session. He went on to say that they would have time to debate HB 2, make amendments, and provide final approval of the product.

{Tape: 1; Side: A; Approx. Time Counter: 18.8 - 21.9}

SEN. SQUIRES asked **SEN. COBB** if he felt that 30 days would be a reasonable amount of time in which to function. **SEN. COBB** responded that he did not know.

SEN. COBB stated that they had two more bills to hear and he was not sure which one would make it out of Committee. He continued, saying that he felt there was a problem, as the budget process

would not work. He remarked that his main concern was how they could pass a bill with a fiscal note during a general session when the fiscal note could only be dealt with during a budget session.

{Tape: 1; Side: A; Approx. Time Counter: 21.9 - 23.3}

SEN. GEBHARDT asked **SEN. BOHLINGER** if the 30 day and 60 day session numbers suggested were set in the Constitution or if it something that the Legislature could adjust if they wanted to go to 40-50 instead. **SEN. BOHLINGER** responded that the language would be submitted to the electorate for their approval or disapproval. He went on to say, that within the language there would be an opportunity to expand the sessions if they felt it was needed, as it did not say 30 days or 60 days in the ballot language.

{Tape: 1; Side: A; Approx. Time Counter: 23.3 - 24.5}

SEN. WHEAT stated that this would change the Constitution and would set it, therefore, the Legislature would not be able to change it unless they went back and amended the Constitution. He went on to say, that if they passed the bill, the days set out in the bill would be the ones that would have to be followed.

There was discussion as to what language the public would be voting on in regard to the Constitutional amendment and whether or not there was any room for the Legislature to make adjustments without further Constitutional amendments.

{Tape: 1; Side: A; Approx. Time Counter: 24.5 - 25.9}

Closing by Sponsor:

SEN. BOHLINGER responded to the concerns raised by **Mr. Frasier**. He stated that the bill had sideboards that would put parameters on the length of time the legislature could meet. **SEN. BOHLINGER** then addressed the Committees' concerns regarding the Constitutional language. He remarked that they were not asking to expand the time that the legislature met, that they were simply asking for annual legislative sessions of a specified duration.

{Tape: 1; Side: A; Approx. Time Counter: 25.9 - 28}

HEARING ON SB 79

Sponsor: SENATOR MIKE SPRAGUE, SD 6, BILLINGS

Proponents: None.

Opponents: Stan Frasier; Nancy Schlepp, Montana Farm Bureau

Opening Statement by Sponsor:

SEN. MIKE SPRAGUE discussed the history of his bill in support of annual legislative sessions. He went on to say that he proposed that the annual sessions be 45 days long. He pointed out that if they were conservative, and did not use all of the 45 days, they would be able to carry those days over, as long as the public understood that they were not using more than 90 days and the cost would not go up. **SEN. SPRAGUE** informed the Committee that his bill was very simple and very basic. He remarked that his bill was modeled after Colorado's system. He went on to say that everyone liked using a two-year projected biennial budget, so that should be left the same.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

SEN. SPRAGUE closed.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 4.5}

HEARING ON SB 160

Sponsor: SENATOR JOHN COBB, SD 25, AUGUSTA

Proponents: None.

Opponents: None.

Opening Statement by Sponsor:

SEN. JOHN COBB stated that what the bill basically did was require the Department of Health and Human Services to develop a strategic plan on how they planned to achieve their goals. He pointed out that most of the other agencies were already developing plans. He commented on the need for the legislature

and interim committees to have an overview of how the money was going to be spent and input as to better ways to handle it. He commented on the federal government making state governments set performance standards. He went on to say that all he wanted was the ability to review the Department's goals and help set standards, allowing everyone to better informed.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None

Closing by Sponsor:

SEN. COBB closed.

{Tape: 1; Side: B; Approx. Time Counter: 4.5 - 12.2}

HEARING ON SB 165

Sponsor: SENATOR MIKE COONEY, SD 26, HELENA

Proponents: Elaine Graveley, Elections Deputy, Secretary of State (SOS); REP. CHRISTOPHER HARRIS, HD 30, Bozeman

Opponents: None.

Opening Statement by Sponsor:

SEN. MIKE COONEY stated that what they were trying to do with the bill, was to bring some continuity into the election laws, by implementing a system that would make sense of the currently disjointed one that in many different directions. He went on to say that the whole question revolved around how they would determine who had won an election when there was a tie vote.

SEN. COONEY gave some examples of what had happened in the past when there had been a tie vote. He then referred to the Montana statutes and discussed the procedures for breaking tie votes. He pointed out that what the bill simply was saying, was that they wanted the Secretary of State, through rule making authority, to devise a process that would be applied across the board, to allow for tie votes to be broken by random choice. He stated that it took the politics out of the process which would make it healthier. SEN. COONEY informed the Committee of how some of the other states dealt with the problem of tie votes. He concluded

by saying that the random choice process would make the breaking of tie votes simpler and the rules would be the same across the board for all elections.

{Tape: 1; Side: B; Approx. Time Counter: 12.2 - 20}

Proponents' Testimony:

REP. CHRISTOPHER HARRIS, HD 30, Bozeman, stated that he commended **SEN. COONEY** for bringing the bill forward. He went on to add some pieces of information. One of those being that if there was a tie vote for a U. S. House seat or U. S. Senate seat the only remedy would be for a new election. He continued, saying that the re-election was a \$500,000 expense to the taxpayers. He went on to discuss other elections and how the tie votes would be broken. **REP. HARRIS** informed the Committee that **SEN. COONEY'S** bill would take care of the problem as it would be fair for every election. He stated it would be fair, it was simple, it was by random choice, and no one could argue with the results as there was no politics involved.

{Tape: 1; Side: B; Approx. Time Counter: 20 - 24}

Elaine Gravely, Elections Director, Secretary of State's Office, stated that they supported SB 165. **Ms. Gravely** commented that by law the Secretary of State was the Chief Election Officer for the State. She discussed the election activities directed by their office. **Ms. Gravely** remarked that the bill made sense.

{Tape: 1; Side: B; Approx. Time Counter: 24 - 24.8}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. COBB asked a question about 13-6-501. He was informed that 13-4-501 was the primary election statute, which stated that should there be a tie, it would be decided by lot.

{Tape: 1; Side: B; Approx. Time Counter: 24.8 - 25.5}

Closing by Sponsor:

SEN. COONEY remarked that he felt SB 165 was a good bill and that

he was appreciative of the Secretary of State's presence at the hearing.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 0.1}

EXECUTIVE ACTION SB 165

Motion/Vote: SEN. SPRAGUE moved that SB 165 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION SB 160

Motion: SEN. SPRAGUE moved SB 160.

CHAIRMAN COBB distributed an amendment to SB 160, attached as Exhibit 1.

EXHIBIT(sts13a01)

Motion CHAIRMAN COBB moved that AMENDMENT TO SB 160 DO PASS.

Discussion:

CHAIRMAN COBB explained the amendment.

There was a general discussion of the purpose of the bill and how the amendments would effect the bill.

Vote: Motion that AMENDMENT TO SB 160 DO PASS carried unanimously.

Motion/Vote: SEN. SPRAGUE moved that SB 160 DO PASS AS AMENDED. Motion carried unanimously.

There was further discussion on the correct language to be used in the amendment.

{Tape: 2; Side: A; Approx. Time Counter: 0.1 - 7.9}

EXECUTIVE ACTION SB 8

Motion: SEN. GEBHARDT moved that SB 8 DO PASS.

Discussion:

SEN. SPRAGUE stated that he did not care if the bill passed on the floor, however, he felt it was important that everyone become aware that there was a problem. He continued that he felt it was his duty to expose the contradiction.

SEN. SQUIRES asked **SEN. SPRAGUE** what the contradiction was. **SEN. SPRAGUE** responded that in the Constitution it said that there must be 150 legislators, 50 Senators and 100 Representatives. However, it also stated that they had the right to adjust their membership by 20 percent, 80 in the House and 40 in the Senate. He pointed out that they would have to clean up the Constitution, as to which way they wanted it, locked in at 150 or being able to adjust by 20 percent.

Pat Murdo stated that what would be substituted in the Constitution would be the language above the vote language. She went on to further explain where the substitute language would be inserted.

Vote: Motion that SB 8 DO PASS carried 3-2 with **SEN. SQUIRES** and **WHEAT** voting no.

{Tape: 2; Side: A; Approx. Time Counter: 7.9 - 12.4}

EXECUTIVE ACTION SB 9

Motion: **SEN. GEBHARDT** moved to INDEFINITELY POSTPONE SB 9.

Discussion:

SEN. SPRAGUE stated that he felt that the testimony that **Gordon Morris** had presented proved that he did not understand that there was a problem in the Constitution. He went on to say that **Mr. Gordon** had testified that it could be done now. **SEN. SPRAGUE** pointed out that according to the letter from **Mr. Peeble** that they were locked in. He continued, saying that he felt that there were 31 counties that were out of statute, because they were suppose to have 9,000 members in a district. **SEN. SPRAGUE** concluded that the voters probably would not approve the bill as they would not understand it either.

SEN. SQUIRES asked if it was the same situation. **SEN. SPRAGUE** stated that it was, as now written they were locked in.

SEN. GEBHARDT stated that he had talked to **Greg Petesch** about dropping the first sentence out of Section 2, to basically drop the authority of the Legislature and leave it to a vote of the people. He went on to say that **Mr. Petesch** had informed him that it could not be done, because of the way the title and language was written, it had to be the Legislature. He concluded that he felt the general vote of the people should have precedence over what the Legislature decides.

SEN. SPRAGUE stated that, as written, the vote of the people could not do county consolidation if they wanted to. He went on to explain why he felt this way.

There was a general discussion by the Committee on the subject of county consolidation.

Vote: Motion to INDEFINITELY POSTPONE SB 9 carried 4-1 with **SEN. SPRAGUE** voting no.

{Tape: 2; Side: A; Approx. Time Counter: 12.4 - 17.7}

EXECUTIVE ACTION SB 66

Motion: **SEN. SQUIRES** moved SB 66.

Motion: **SEN. SQUIRES** moved that SB 66 BE AMENDED.

Discussion:

A mock-up of SB 66 with amendments was distributed to the Committee and is attached as Exhibit 2.

EXHIBIT(sts13a02)

SEN. COBB explained the amendment.

Vote: Motion that AMENDMENT TO SB 66 DO PASS carried unanimously.

Motion: **SEN. SQUIRES** moved that SB 66 DO PASS AS AMENDED.

Discussion:

SEN. GEBHARDT reiterated his concerns with the bill, however, he would vote for it.

SEN. SQUIRES explained how the veterans would get the benefit.

SEN. SQUIRES asked **Mike O'Connor** if she was correct. **Mr. O'Connor** replied that employee groups were the ones that would bring the proposed legislation forward.

SEN. SQUIRES asked **Mr. O'Connor** if they were grouped together under certain classifications, such as game wardens and police officers. **Mr. O'Connor** stated that they were wholly different retirement systems for each separate Trust Fund.

SEN. SQUIRES stated that until each organization came forward they would not receive the benefit in the same way.

Vote: Motion that SB 66 DO PASS AS AMENDED carried unanimously.

{Tape: 2; Side: A; Approx. Time Counter: 17.7 - 22.4}

EXECUTIVE ACTION ON SB 145

Motion: CHAIRMAN COBB moved SB 145 DO PASS.

Motion: SEN. COBB moved that SB 145 BE AMENDED.

Discussion:

Pat Murdo, Legislative Services, explained the amendment which is attached as Exhibit 3.

EXHIBIT(sts13a03)

SEN. SQUIRES asked if Ameri Corp was under the National and Community Service Act. **Ms. Murdo** said she was not sure.

Motion: CHAIRMAN COBB WITHDREW HIS MOTION THAT SB 145 DO PASS.

The Committee continued to discuss Ameri Corp.

{Tape: 2; Side: A; Approx. Time Counter: 22.4 - 25.5}

{Tape: 2; Side: B; Approx. Time Counter: 0 - 1.3}

EXECUTIVE ACTION SB 110

Motion: SEN. GEBHARDT moved TO INDEFINITELY POSTPONE SB 110.

Discussion:

The Motion to Indefinitely Postpone was put on hold until the proposed amendments, attached as Exhibit 4, were distributed.

EXHIBIT (sts13a04)

Ms. Murdo explained the amendment.

The Committee discussed the amendment.

SEN. GEBHARDT explained his reasons for indefinitely postponing the bill.

The Committee continued to discuss the purpose of the bill.

Vote: Motion TO INDEFINITELY POSTPONE SB 110 failed 2-3 with SENS. COBB, SQUIRES and WHEAT voting no.

Motion: CHAIRMAN COBB moved that SB 110 DO PASS.

Motion: SEN. GEBHARDT moved that the AMENDMENT TO SB 110 DO PASS.

Substitute Motion/Vote: SEN. SPRAGUE made a substitute motion that the AMENDMENT TO SB 110 DO NOT PASS. Substitute motion carried 3-2 with SENS. SQUIRES and WHEAT voting no.

Motion/Vote: CHAIRMAN COBB moved that SB 110 DO PASS. Motion carried 4-1 with SEN. GEBHARDT voting no.

{Tape: 2; Side: B; Approx. Time Counter: 1.3 - 11.6}

The Committee discussed SB 50 and other bills that they had heard that needed to be acted on.

{Tape: 2; Side: B; Approx. Time Counter: 11.6 - 17}

ADJOURNMENT

Adjournment: 4:45 P.M.

SEN. JOHN COBB, Chairman

MARI PREWETT, Secretary

JC/MS

EXHIBIT (sts13aad)